

Subdivision I. - In General

Sec. 78-1176. - Reserved.

Editor's note—

An ordinance adopted by Town Council 5-17-11, effective 7-15-11, date of DEP approval, repealed [§ 78-1176](#), which pertained to purpose and derived from Ord. of 9-18-2001, § 10.3.1.

Sec. 78-1177. - Applicability.

This division applies to an overlay district known as the "shoreland zone," which term is defined in [section 78-1](#). This division also applies to any building or structure built on, over or abutting a dock, wharf or pier, or other building extending beyond the normal high water line of a waterbody or within a wetland.

(Ord. of 9-18-2001, § 10.3.2; Town Council adoption 5-17-11; effective date 7-15-11, date of DEP approval)

Sec. 78-1178. - Establishment of shoreland zone and subdistricts and zoning map.

The shoreland zone is hereby divided into the following subdistricts, as shown on the official shoreland zoning map which is made a part of this chapter:

- (1) Resource protection subdistrict (RP).
- (2) Shoreland residential activity subdistrict (RA).
- (3) Limited commercial subdistrict (LC).
- (4) General development subdistrict (GD).
- (5) Stream protection subdistrict (SP).
- (6) Public beach subdistrict (PB).

(Ord. of 9-18-2001, § 10.3.3; Town Council adoption 5-17-11; effective date 7-15-11, date of DEP approval)

Sec. 78-1179. - Interpretation of district boundaries.

The boundaries of the shoreland zone exist as set forth in [section 78-1177](#). The depiction of the shoreland zone and associated subdistricts delineated on the official shoreland zoning map is illustrative of the general location of the zone and subdistricts. The boundaries of the zone and subdistricts shall be determined by measurement of the distance indicated on the maps from the normal high water line of the waterbody or the upland edge of wetland vegetation, regardless of the location of the boundary shown on the map.

(Ord. of 9-18-2001, § 10.3.4; Town Council adoption 5-17-11; effective date 7-15-11, date of DEP approval)

Sec. 78-1180. - Land use requirements.

Except as hereinafter specified in this division, no building, structure or land located within the shoreland zone shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, expanded, moved, or altered and no new lot shall be created except in conformity with all of the regulations herein specified for the district in which it is located, unless a variance is granted.

(Ord. of 9-18-2001, § 10.3.5; Town Council adoption 5-17-11; effective date 7-15-11, date of DEP approval)

Sec. 78-1181. - Nonconformance.

(a) *Purpose.* It is the intent of this division to promote land use conformities, except that nonconforming conditions that existed before the effective date of this chapter or amendments thereto shall be allowed to continue, subject to the requirements set forth in this division and in division 2 of article II of this chapter. Except as otherwise provided in this chapter, a non-conforming condition shall not be permitted to become more non-conforming.

(b) *General.*

(1) *Transfer of Ownership.* Nonconforming structures, lots, and uses may be transferred, and the new owner may continue the nonconforming use or continue to use the nonconforming structure or lot, subject to the provisions of this chapter.

(2) *Repair and maintenance.* This chapter allows, without a permit, activities not meeting the standards of [section 78-34\(f\)](#), which involve the normal upkeep and maintenance of nonconforming uses and structures.

(c) *Nonconforming structures.*

(1) *Expansions.* A nonconforming structure may be added to or expanded after obtaining a conditional use permit from the planning board, if such addition or expansion does not increase the nonconformity of the structure and is in accordance with subparagraphs (a) and (b) below.

a. After January 1, 1989, if any portion of a structure is less than the required setback from the normal high water line of a waterbody or tributary stream or the upland edge of a wetland, that portion of the structure shall not be expanded, as measured in floor area or volume, by 30 percent or more, during the lifetime of the structure. If a replacement structure conforms with the requirements of [section 78-1181\(c\)\(3\)](#), and is less than the required setback from a water body, tributary stream or wetland, the replacement structure may not be expanded if the original structure existing on January 1, 1989 had been expanded by 30 percent in floor area and volume since that date.

An expansion which increases either the volume or floor area of the structure or any portion thereof that is less than the required water setback by 30 percent or more is a substantial expansion which is prohibited unless a variance is obtained.

b. Whenever a new, enlarged, or replacement foundation is constructed under a nonconforming structure, the structure and new foundation must be placed such that the setback requirement is met to the greatest practical extent as determined by the planning board, basing its decision on the criteria specified in subsection (b)(2) of this section pertaining to relocation. If the completed foundation does not extend beyond the exterior dimensions of the structure, except for expansion in conformity with section (a) above, and the foundation does not cause the structure to be elevated by more than three additional feet, as measured from the uphill side of the structure (from original ground level to the bottom of the first floor sill), it shall not be considered to be an expansion of the structure.

c. No structure which is less than the required setback from the normal high water line of a waterbody, tributary stream, or upland edge of a wetland shall be expanded toward the waterbody, tributary stream, or wetland.

(2) *Relocation.* A nonconforming structure may be relocated within the boundaries of the parcel on which the structure is located, provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by the planning board and provided that the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of state law and the state subsurface wastewater disposal rules or that a new system can be installed in compliance with the law and said rules. In no case shall a structure be relocated in a manner that causes the structure to be more nonconforming.

In determining whether the structure relocation meets the setback to the greatest practical extent, the planning board shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location of the septic system and other on-site soils suitable for septic systems, and the type and amount of vegetation to be removed to accomplish the relocation.

When it is necessary to remove vegetation within the water or wetland setback area in order to relocate a structure, the planning board shall require replanting of native vegetation to compensate for the destroyed vegetation. In addition, the area from which the relocated structure was removed must be replanted with vegetation. Replanting shall be required as follows:

a. Trees removed in order to relocate a structure must be replanted with at least one native tree, three feet in height, for every tree removed. If more than five trees are planted, no one species of tree shall make up more than 50 percent of the number of trees planted. Replaced trees must be planted no further from the water or wetland than the trees that were removed.

Other woody and herbaceous vegetation, and ground cover, that are removed or destroyed in order to relocate a structure must be re-established. An area at least the same size as the area where vegetation and/or ground cover was disturbed, damaged, or removed must be reestablished within the setback area. The vegetation and/or ground cover must consist of similar native vegetation and/or ground cover that was disturbed, destroyed or removed.

b. Where feasible, when a structure is relocated on a parcel the original location of the structure shall be replanted with vegetation which may consist of grasses, shrubs, trees, or a combination thereof.

(3) *Reconstruction or replacement.* Any nonconforming structure which is located less than the required setback from a waterbody, tributary stream, or wetland and which is removed, or damaged or destroyed, regardless of the cause, by more than 50 percent of the market value of the structure before such damage, destruction or removal, may be reconstructed or replaced, provided that a permit is obtained within 18 months of the date of said damage, destruction, or removal, and provided that such reconstruction or replacement is in compliance with the waterbody, tributary stream or wetland setback requirement to the greatest practical extent as determined by the planning board in accordance with the purposes of this chapter. In no case shall a structure be reconstructed or replaced so as to increase its nonconformity. If the reconstructed or replacement structure is less than the required setback it shall not be any larger than the original structure, except as allowed pursuant to [section 78-1181\(c\)\(1\)](#) above, as determined by the non-conforming floor area and volume of the reconstructed or replaced structure at its new location. If the total amount of floor area and volume of the original structure can be relocated or reconstructed beyond the required setback area, no portion of the relocated or reconstructed structure shall be replaced or constructed at less than the setback requirement for a new structure. When it is necessary to remove

vegetation in order to replace or reconstruct a structure, vegetation shall be replanted in accordance with [section 78-1181\(c\)\(2\)](#) above.

Any nonconforming structure which is located less than the required setback from a water body, tributary stream, or wetland and which is removed by 50 percent or less of the market value, or damaged or destroyed by 50 percent or less of the market value of the structure, excluding normal maintenance and repair, may be reconstructed in place if a permit is obtained from the code enforcement officer within one year of such damage, destruction, or removal.

In determining whether the structure reconstruction or replacement meets the water setback to the greatest practical extent, the planning board shall consider, in addition to the criteria in subsection (c)(2), Relocation, above, the physical condition and type of foundation present, if any.

(4) *Change of use of a non-conforming structure.* The use of a nonconforming structure may not be changed to another use unless the planning board, after receiving a written application, determines that the new use will have no greater adverse impact on the water body, tributary stream, or wetland, or on the subject or adjacent properties and resources than the existing use.

In determining that no greater adverse impact will occur, the planning board shall require written submissions from the applicant, regarding the probable effects on public health and safety, erosion and sedimentation, water quality, fish and wildlife habitat, vegetative cover, visual and actual points of public access to waters, natural beauty, floodplain management, archaeological and historic resources, and commercial fishing and maritime activities, and other functionally water-dependent uses, as applicable.

(d) Nonconforming uses.

(1) *Expansions.* Expansions of nonconforming uses are prohibited, except that nonconforming residential uses may, after obtaining a conditional use permit from the planning board be expanded within existing residential structures or within expansions of such structures as permitted in subsection (b)(1) of this section.

(2) *Resumption prohibited.* A lot or structure in or on which a non-conforming use is discontinued for a period exceeding two years, or which is changed to a conforming use for a period exceeding one year, may not again be devoted to a nonconforming use except that the planning board may, for good cause shown by the applicant, grant up to a one year extension of the period of discontinuance or changed use. This provision shall not apply to the resumption of a use of a residential structure provided that the structure has been used or maintained for residential purposes during the five-year period preceding the discontinuance or change of use.

(3) *Change of use.* An existing nonconforming use may be changed to another nonconforming use provided that the proposed use has no greater adverse impact on the subject and adjacent properties and resources than the former use, as determined by the planning board. The determination of no greater adverse impact shall be made according to criteria listed in [section 78-1181\(c\)\(4\)](#) "change of use of a nonconforming structure," above.

(e) Nonconforming lots.

(1) *Nonconforming lots.* A nonconforming lot of record as of the effective date of this chapter or amendment thereto may be built upon, without the need for a variance, provided that such lot is in separate ownership and not contiguous with any other lot in the same ownership, and that all provisions of this chapter except lot area, lot width and shore frontage can be met. Variances relating to setback or other requirements not involving lot area, lot width or shore frontage shall be obtained by action of the board of appeals.

(2) *Contiguous built lots.* If two or more contiguous lots or parcels are in a single or joint ownership of record at the time of adoption of this chapter, if all or part of the lots do not meet the dimensional

requirements of this chapter, and if a principal use or structure exists on each lot, the non-conforming lots may be conveyed separately or together, provided that the State Minimum Lot Size Law (12 M.R.S.A. sections 4807-A through 4807-D) and the State of Maine Subsurface Wastewater Disposal Rules are complied with.

If two or more principal uses or structures existed on a single lot of record on the effective date of this chapter, each may be sold on a separate lot provided that the State Minimum Lot Size Law and rules are complied with or each lot is served by public sewer. When such lots are divided each lot thus created must be as conforming as possible to the dimensional requirements of this chapter.

(3) *Contiguous lots—Vacant or partially built.* If two or more contiguous lots or parcels are in single or joint ownership of record at the time of or since adoption or amendment of this chapter, if any of these lots do not individually meet the dimensional requirements of this chapter or subsequent amendments, and if one or more of the lots are vacant or contain no principal structure the lots shall be combined to the extent necessary to meet the dimensional requirements.

(Ord. of 9-18-2001, § 10.3.6; Town Council adoption 5-17-11; effective date 7-15-11, date of DEP approval)

Sec. 78-1182. - Establishment of shoreland zone subdistricts.

(a) Generally.

(1) The depiction of these subdistricts on the official zoning map is illustrative of their location. The boundaries of these subdistricts, unless shown to be the centerline of a street or railroad, shall be determined by measurement of the distance indicated on the maps from the high water line of the waterbody or the upland edge of wetland vegetation, regardless of the location of the boundary shown on the map. Exact boundaries shall be determined by on-site inspection and measurement from the normal high water line or from the upland edge of a wetland.

(2) Such on-site inspection and measurement may be requested by the property owner at any time or by the applicant at the time of filing an application for a permit or approval under this chapter. As part of such on-site inspection and measurement, the property owner or the applicant for any permit or approval may present evidence from persons with training and/or experience related to the identification, delineation and classification of wetlands and/or the delineation of the high water line or the upland edge of a wetland. Such evidence shall be presented to the code enforcement officer or to the planning board, if an application for a planning board permit or approval is pending, and a determination shall be made as to the exact boundaries, subject to review by the board of appeals pursuant to subdivision II of division 2 of article II of this chapter.

(b) *Resource protection subdistrict (RP).* The resource protection subdistrict includes areas in which development would adversely affect water quality, productive habitat, biological ecosystems, or scenic and natural values. This subdistrict is intended to include the following areas when they occur within the limits of the shoreland zone, exclusive of the stream protection subdistrict, except that areas which are currently developed and areas which meet the criteria for the limited commercial or general development subdistricts were not included within the resource protection subdistrict:

(1) Areas within 250 feet, horizontal distance, of the upland edge of freshwater wetlands and wetlands associated with great ponds and rivers, which are rated "moderate" or "high" value waterfowl and wading bird habitat, including nesting and feeding areas, by the Maine Department of Inland Fisheries and Wildlife (MDIF&W) that are depicted on a Geographic Information System (GIS) data layer maintained by either MDIF&W or the Department as of December 31, 2008. For the purposes of this paragraph "wetlands associated with great ponds and rivers" shall mean areas characterized by non-forested wetland

vegetation and hydric soils that are contiguous with a great pond or river, and have a surface elevation at or below the water level of the great pond or river during the period of normal high water. "Wetlands associated with great ponds or rivers" are considered to be part of that great pond or river. Also included in this district are areas within 250 feet, horizontal distance, of the upland edge of salt marshes and salt meadows which are rated "moderate" or "high" value waterfowl and wading bird habitat, including nesting and feeding areas, by the MDIF&W as of January 1, 1973.

(2) Floodplains along rivers and floodplains along artificially formed great ponds along rivers defined by the 100-year floodplain as designated on the Federal Emergency Management Agency's (FEMA) flood insurance rate maps or flood hazard boundary maps, or the flood of record or, in the absence of these, by soil types identified as recent floodplain soils. This subdistrict is also intended to include undeveloped areas in 100 year floodplains adjacent to tidal waters as shown on FEMA's Flood Insurance Rate Maps or Flood Hazard Boundary Maps.

(3) Areas of two or more contiguous acres with sustained slopes of 20 percent or greater.

(4) Areas of two or more contiguous acres supporting wetland vegetation and hydric soils, which are not part of a freshwater or coastal wetland as defined, and which are not surficially connected to a water body during the period of normal high water. These areas usually consist of forested wetlands abutting water bodies and non-forested wetlands.

(5) Land areas along rivers subject to severe bank erosion, undercutting, or riverbed movement, and lands adjacent to tidal waters which are subject to severe erosion or mass movement, such as steep coastal bluffs.

(6) In addition, the resource protection subdistrict extends seaward to the municipal boundary.

(c) *Shoreland residential activity subdistrict (RA)*. The shoreland residential activity subdistrict includes those areas within the shoreland zone suitable for residential and recreational development. It includes areas other than those in the resource protection subdistrict, or stream protection subdistrict, and areas which are used less intensively than those in the limited commercial subdistrict or the general development subdistrict.

(d) *Limited commercial subdistrict (LC)*. The limited commercial subdistrict overlays the following underlying zoning districts:

Beachfront resort district (BRD); Residential beachfront district (RBD); Residential 3 district (R3); Neighborhood commercial district 1 (NC-1); Neighborhood commercial district 2 (NC-2)

It includes areas of mixed, light commercial and residential uses, exclusive of the stream protection subdistrict, which should not be developed as intensively as the general development subdistrict. This subdistrict includes areas of two or more contiguous acres in size devoted to a mix of residential and low intensity business and commercial uses. Industrial uses are prohibited.

(e) *General development subdistrict (GD)*. The general development subdistrict overlays the following underlying zoning districts:

Downtown district 1 (DD-1); Downtown district 2 (DD-2); Contract zone 1 (CZ-1)

It includes the following types of existing, intensively developed areas:

(1) Areas of two or more contiguous acres devoted to commercial or intensive recreational activities, or a mix of such activities, including but not limited to the following:

a. Areas devoted to retail trade and service activities, or other commercial activities; and

b. Areas devoted to intensive recreational development and activities, such as, but not limited to amusement parks.

(2) Areas otherwise discernible as having patterns of intensive commercial, industrial or recreational uses.

(f) *Stream protection subdistrict (SP)*. This subdistrict includes all land areas within 100 feet, horizontal distance, of the normal high water line of a stream and all land areas within 100 feet of the high water line of the nontidal portion of the Goosefare Brook, located from the Boston and Maine Railroad tracks upstream to the Saco border, exclusive of:

- (1) Areas within 250 feet, horizontal distance, of the normal high water line of a tidal saltwater body; and
- (2) Areas within 250 feet, horizontal distance, of the upland edge of coastal or freshwater wetlands.

Where a stream and its associated shoreland area is located within the proscribed horizontal distance, above, from such waterbodies or wetlands, that land area should be regulated under the terms of the shoreland zone subdistrict associated with that waterbody or wetland.

(g) *Public beach subdistrict (PB)*. This subdistrict includes the beach area and public park land acquired by the Town of Old Orchard Beach for a public park on or about April 23, 1935 and May 5, 1935. The purpose of this subdistrict is to allow continuation of all the public recreational uses which have been made of the beach historically, subject to such rules and regulations as the Town Council may from time to time impose by ordinance, regulation or policy governing the use of the public park.

(Ord. of 9-18-2001, § 10.3.7; Town Council adoption 5-17-11; effective date 7-15-11, date of DEP approval)

Sec. 78-1183. - Land uses.

Generally. The use of land, buildings and structures in the shoreland zone is governed as follows:

- (a) In the resource protection, stream protection and public beach subdistricts, uses are governed exclusively by the table "Land Uses in the Shoreland Zone," below (the "Shoreland Use Table").
- (b) In the shoreland residential activity, limited commercial and general development subdistricts, uses are governed by the Shoreland Use Table and by the use regulations for the underlying zoning district as set forth in the other divisions of this article. In cases where comparison between the Shoreland Use Table and the underlying zoning district regulations creates uncertainty as to whether a use is permitted, the regulation imposing the greater restrictions and/or allowing a less intensive use shall control. In any case where a use is specifically listed as prohibited in the underlying zoning district, the use is also prohibited in the shoreland zone overlay subdistrict, despite anything to the contrary in the Shoreland Use Table. In any case where a use is specifically listed as prohibited in the Shoreland Use Table, the use is prohibited, despite anything to the contrary in the underlying zoning district regulations.

Key to Use Table:

Yes - Allowed (no permit required under this division, but the use must comply with all applicable land use standards of this division, and permits or approvals required by other provisions of this chapter must be obtained.)

No - Prohibited

PB - Allowed with permit issued by the planning board.

CEO - Allowed with permit issued by the code enforcement officer.

LPI - Allowed with permit issued by the local plumbing inspector.

LAND USES IN THE SHORELAND ZONE

USE	Permission/Review Authority by Subdistrict					
	SP	RP	RA	LC	GD	PB
(1) Nonintensive recreational uses not requiring structures such as hunting, fishing and hiking;	yes	yes	yes	yes	yes	yes
(2) Motorized and nonmotorized vehicular traffic on existing roads, trails and rails;	yes	yes	yes	yes	yes	yes
(3) Forest management activities except for timber harvesting & land management;	yes	yes	yes	yes	yes	no
(4) Timber harvesting;	yes	CEO	yes	yes	yes	no
(5) Clearing or removal of vegetation for activities other than timber harvesting	CEO	CEO ¹	yes	yes	yes	CEO
(6) Fire prevention activities	yes	yes	yes	yes	yes	yes
(7) Wildlife management activities;	yes	yes	yes	yes	yes	yes
(8) Soil and water conservation practices	yes	yes	yes	yes	yes	yes
(9) Agriculture;	yes	PB	yes	no	no	no
(10) Mineral exploration	no	no	no	no	no	no
(11) Mineral extraction including sand and gravel extraction;	no	no	no	no	no	no
(12) Surveying and resource analysis	yes	yes	yes	yes	yes	yes
(13) Emergency operations	yes	yes	yes	yes	yes	yes
(14) One family residential structures, including driveways	PB ⁴	PB ⁹	CEO	CEO	CEO	no
(15) Multi-unit residential	No	No	PB	PB	PB	no
(16) Commercial, not otherwise listed	No	No ¹⁰	PB	PB	PB	no
(17) Industrial, not otherwise listed	No	No	No	No	PB	no
(18) Prohibited commercial or industrial, which includes: Automobile repair and service stations; fuel storage,	No	No	No	No	No	no
(19) Governmental and institutional	No	No	PB	PB	PB	yes
(20) Small Nonresidential facilities for educational, scientific or nature interpretation purposes;	PB ⁴	PB	CEO	CEO	CEO	yes

(21) Aquaculture;	PB	PB	PB	yes	yes	yes
(22) structures accessory to allowed uses permitted in this section;	PB ⁴	PB	CEO	CEO	yes	yes
(23) piers, docks, wharves, bridges and other structures and uses extending over or below the normal high water	PB CEO ¹¹	PB CEO ¹¹	PB CEO ¹¹	PB CEO ¹¹	PB CEO ¹¹	PB CEO ¹¹
(24) Conversions of seasonal residences to year-round residences	LPI	LPI	LPI	LPI	LPI	no
(25) Home occupations	PB	PB	PB	PB	PB	no
(26) Private sewage disposal systems for allowed uses	LPI	LPI	LPI	LPI	LPI	no
(27) Essential services	PB ⁶	PB ⁶	PB	PB	PB	yes
A. Roadside distribution lines (34.5kV and lower)	CEO ⁶	CEO ⁶	yes ¹²	yes ¹²	yes ¹²	no
B. Non-roadside or cross-country distribution lines involving ten poles or less in the shoreland zone	PB ⁶	PB ⁶	CEO	CEO	CEO	no
C. Non-roadside or cross-country distribution lines involving eleven or more poles in the shoreland zone	PB ⁶	PB ⁶	PB	PB	PB	no
D. Other essential services	PB ⁶	PB ⁶	PB	PB	PB	yes
(28) Service drops, as defined, to allowed uses	yes	yes	yes	yes	yes	yes
(29) Public and private recreational areas involving minimal structural development;	PB	PB	PB	CEO	CEO	yes ¹³
(30) Parking facilities;	no	no ⁷	PB	PB	PB	no
(31) Road construction;	PB	no ⁸	PB	PB	PB	no
(32) Campgrounds	no	no ⁷	PB	PB	PB	no
(33) Land management roads	yes	PB	yes	yes	yes	no
(34) Marinas	no	no	no	no	no	no
(35) Filling and earth-moving activities associated with permitted uses; and < 10 cubic yards	CEO	CEO	yes	yes	yes	CEO
(36) Filling and earth-moving activities associated with permitted uses; and > 10 cubic yards	PB	PB	CEO	CEO	CEO	CEO
(37) Signs	yes	yes	yes	yes	yes	yes
(38) Wireless telecommunication facilities	NO	NO	PB	PB	PB	no

(39) Public parks	yes	yes	yes	yes	yes	yes
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¹In RP not allowed within 75 feet horizontal distance, of the normal high-water line of great ponds, except to remove safety hazards.

²Reserved.

³ Reserved.

⁴Provided that a variance from the setback requirement is obtained from the board of appeals.

⁵Functionally water-dependent uses and uses accessory to such water dependent uses only (See note on previous page).

⁶See further restrictions in [section 78-1209](#), essential services.

⁷Except when area is zoned for resource protection due to floodplain criteria in which case a permit is required from the PB.

⁸Except as provided in [section 78-1206](#), roads and driveways.

⁹Single-family residential structures may be allowed only according to the provisions of [section 78-1186](#), undeveloped lots in resource protection. Two-family residential structures are prohibited.

¹⁰Except for commercial uses otherwise listed in this table, such as marinas and campgrounds, that are allowed in the respective district.

¹¹Excluding bridges and other crossings not involving earthwork, in which case no permit is required.

¹²Permit not required' but must file a written "notice of intent to construct" with CEO.

¹³ Public facilities only.

(Ord. of 9-18-2001, § 10.3.8; Town Council adoption 5-17-11; effective date 7-15-11, date of DEP approval)

Sec. 78-1184. - Land use performance standards.

All land use activities within the shoreland zone shall conform to the shoreland zoning performance standards contained in division 13 of article VIII of this chapter, if applicable. When there is any conflict between the performance standards in division 13 of article VIII of this chapter and the other standards of this chapter, the more restrictive standards shall control.

(Ord. of 9-18-2001, § 10.3.9; Town Council adoption 5-17-11; effective date 7-15-11, date of DEP approval)

Sec. 78-1185. - Space and bulk requirements.

Space and bulk requirements for the shoreland zone and its subdistricts are as follows:

Zoning Standards	Minimum or	Space and bulk requirement
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	Maximum	SP	RP	RA	LC	GD	PB
Lot area	Minimum square footage	30,000-tidal, 40,000-non-tidal, per dwelling unit	30,000-tidal, 40,000-non-tidal, per dwelling unit	Same as underlying district	Same as underlying district	Same as underlying district	None
Street frontage	n/a	Same as underlying district	Same as underlying district	Same as underlying district	Same as underlying district	Same as underlying district	None
Shore frontage	Minimum	150 ft. - tidal, 200 ft. non-tidal, per dwelling unit	150 ft. - tidal, 200 ft. non-tidal, per dwelling unit	150 ft. - tidal, 200 ft. non-tidal, per dwelling unit	Tidal areas-200 ft. per principal structure, for governmental, institutional commercial or industrial uses, 300 ft. for non-tidal	Tidal areas-200 ft. per principal structure, for governmental, institutional commercial or industrial uses, 300 ft. for non-tidal	None
Front yard setback	Minimum	50 ft.	50 ft.	Same as underlying district	Same as underlying district	Same as underlying district	None
Side yard setback	Minimum	25 ft.	25 ft.	Same as underlying district	Same as underlying district	Same as underlying district	None
Rear yard setback	Minimum	25 ft.	25 ft.	Same as underlying district	Same as underlying district	Same as underlying district	None
Setback from water bodies, wetlands and tributary streams	Minimum	See Sec. 78-1202	See Sec. 78-1202	See Sec. 78-1202	See Sec. 78-1202	See Sec. 78-1202	See Sec. 78-1202
Lot coverage	Maximum	20%	20%	Same as underlying district	Same as underlying district	Same as underlying district	20%
Building height ¹	Maximum	35 ft.	35 ft.	Same as underlying district	Same as underlying district	Same as underlying district	35 ft.

¹ This provision shall not apply to structures such as transmission towers, windmills, antennas, and similar structures having no floor area.

(1) Land below the normal high-water line of a water body or upland edge of a wetland and land beneath roads serving more than two lots shall not be included towards calculating minimum lot area.

(2) Lots located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof after September 22, 1971

(3) The minimum width of any portion of any lot within 100 feet, horizontal distance, of the normal high-water line of a water body or upland edge of a wetland shall be equal to or greater than the shore frontage requirement for a lot with the proposed use.

(4) If more than one residential dwelling unit, principal governmental, institutional, commercial or industrial structure or use, or combination thereof, is constructed or established on a single parcel, all dimensional requirements shall be met for each additional dwelling unit, principal structure, or use.

(Ord. of 9-18-2001, § 10.3.10; Town Council adoption 5-17-11; effective date 7-15-11, date of DEP approval; Ord. of 10-16-2012(2))

Sec. 78-1186. - Special permit for undeveloped lots in resource protection.

In addition to the criteria specified in subsection 78-34(e), excepting structure setback requirements, the planning board may approve a permit for single-family residential structure in a resource protection district provided that the applicant demonstrates that all of the following conditions are met:

(a) There is no location on the property, other than a location within the resource protection district, where the structure can be built.

(b) The lot on which the structure is proposed is undeveloped and was established and recorded in the registry of deeds of the county in which the lot is located before the adoption of the resource protection district.

(c) The proposed location of all buildings, sewage disposal systems and other improvements are:

(1) Located on natural ground slopes of less than 20 percent; and

(2) Located outside the floodway of the 100-year floodplain along rivers and artificially formed great ponds along rivers and outside the velocity zone in areas subject to tides, based on detailed flood insurance studies and as delineated on the Federal Emergency Management Agency's flood boundary and floodway maps and flood insurance rate maps; all buildings, including basements, are elevated at least one foot above the 100-year floodplain elevation; and the development is otherwise in compliance with any applicable municipal floodplain ordinance.

If the floodway is not shown on the Federal Emergency Management Agency Maps, it is deemed to be one-half the width of the 100-year floodplain.

(d) The total ground-floor area, including cantilevered or similar overhanging extensions, of all principal and accessory structures is limited to a maximum of 1,500 square feet. This limitation shall not be altered by variance.

(e) All structures, except functionally water-dependent structures, are set back from the normal high water line of a waterbody, tributary stream or upland edge of a wetland to the greatest practical extent, but no less than 75 feet, horizontal distance. In determining the greatest practical extent, the Planning Board shall consider the depth of the lot, the slope of the land, the potential for soil erosion, the type and amount of vegetation to be removed, the proposed building site's elevation in regard to the floodplain, and its proximity to moderate-value and high-value wetlands.

(Town Council adoption 5-17-11; effective date 7-15-11, date of DEP approval)

Secs. 78-1187—78-1200. - Reserved.

Subdivision II. - Shoreland Zone Performance Standards